

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

SANDRA JEANNE RANCOURT,

Plaintiff,

Case No. 1:18-cv-00042-JTN-ESC

vs.

Judge Janet T. Neff

**EXPERIAN INFORMATION
SOLUTIONS, INC.; TRANS UNION
LLC; EQUIFAX, INC.; EQUIFAX
INFORMATION SERVICES LLC,**

Defendants.

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**DEFENDANT EQUIFAX INC.'S REPLY BRIEF IN SUPPORT OF
MOTION TO DISMISS FIRST AMENDED COMPLAINT**

Defendant Equifax Inc., by counsel, files its Reply in further support of its Motion to Dismiss First Amended Complaint (“Motion to Dismiss,” Doc. 31) the First Amended Complaint for Violations of the FCRA (“FAC,” Doc. 27) and in reply to Plaintiff’s Brief in Opposition to Defendant Equifax Inc.’s Motion to Dismiss Plaintiff’s Complaint (“Opposition,” Doc. 42). For the reasons set forth below and in its opening brief, Equifax Inc.’s Motion to Dismiss should be granted.

ARGUMENT

In her Opposition, Ms. Rancourt argues without any factual or legal basis that anything that bears the name Equifax is attributable to Equifax Inc., and not any of its subsidiaries or affiliates. (Doc. 42 at 2 n.2). Ms. Rancourt's arguments ignore the definition of a consumer reporting agency stated in the FCRA:

any person which, for monetary fees ... regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

15 U.S.C. § 1681a(f). Equifax Inc.'s activities in relation to its subsidiaries do not make it a consumer reporting agency as defined by the FCRA. Rather, the sole issue is whether Ms. Rancourt provides a factual and legal predicate to allege that Equifax Inc.'s activities fit the definition of a consumer reporting agency as stated in § 1681a(f). Ms. Rancourt fails to do so in her FAC. In her Opposition, Ms. Rancourt does not posit a legal basis to hold the parent of a consumer reporting agency necessarily liable for the acts of the consumer reporting agency itself.

In its Motion to Dismiss, Equifax cited numerous cases that hold that Equifax Inc. is not a consumer reporting agency. (Doc. 32 at 6-8 (citing *McDonald v. Equifax Inc.*, No. 3:15-CV-3212-B, 2017 WL 879224 (N.D. Tex. Mar. 6, 2017); *Greeear v. Equifax, Inc.*, No. 13-11896, 2014 WL 1378777, at *1 (E.D. Mich. Apr. 8, 2014); *Channing v. Equifax, Inc.*, No. 5:11-CV-293-FL, 2013 WL 593942, at * 2

(E.D.N.C. Feb. 15, 2013); *Slice v. Choicedata Consumer Servs., Inc.*, No. 3:04-CV-428, 2005 WL 2030690, at *3 (E.D. Tenn. Aug. 23, 2005); *Frihat v. Citimortgage, Inc.*, No. 07-CV-946, Doc. 60 at 4-5 (W.D. Mo. Dec. 1, 2009) (Doc. 33-1); *Persson v. Equifax Inc.*, No. 7:02-CV-511, Doc. 80 (W.D. Va. Oct. 28, 2002) (Doc. 33-3); *Weiler v. Equifax Inc.*, No. 2:99-CV-936, Doc. 29 at 2-4 (W.D. Pa. Nov. 16, 2000) (Doc. 33-4).

In her Opposition, Ms. Rancourt argues that the issue of whether Equifax Inc. is a consumer reporting agency should be resolved at the summary judgment stage. (Doc. 42 at 4-6). However, Ms. Rancourt's FAC supplies the necessary facts to resolve the issue now. Ms. Rancourt concedes that Equifax Inc. is a parent holding company of EIS. (Doc. 27 ¶ 7). Ms. Rancourt's own exhibits establish that she sent her requests to EIS, not Equifax Inc. (Doc. 27-2 at 4; Doc. 27-4 at 5). The Consumer Financial Protection Bureau confirms that the address listed on Ms. Rancourt's letters: "P.O. Box 740256, Atlanta, GA 30374" (Doc. 1-5 at 1; Doc. 1-8 at 1), is the address for EIS, not Equifax Inc. (<https://www.consumerfinance.gov/ask-cfpb/how-can-i-contact-the-nationwide-credit-reporting-companies-with-general-inquiries-en-1225/>). In response to her second request, Ms. Rancourt received a reply letter that clearly states that it was sent by Equifax Information Services LLC:

Please return this letter along with the requested information and your original correspondence/request to the address below.

Equifax Information Services LLC

PO BOX 105167
Atlanta. GA 30348-5167

Thank you for the opportunity to assist you.

Equifax Information Services LLC

Equifax Information Services LLC November 22, 2017
PO Box 105167
Atlanta. GA 30348-5167

(Doc. 27-5 at 2-3). Moreover, Ms. Rancourt fails to cite a single decision that holds that Equifax Inc. is a consumer reporting agency. Accordingly, the Court should grant the Motion to Dismiss Equifax Inc.

CONCLUSION

For the reasons set forth above and in its original brief, Equifax Inc. requests that this Court grant the Motion to Dismiss and dismiss Ms. Rancourt's FAC pursuant to Rule 12(b)(6) and for such other relief as the Court deems necessary.

Respectfully submitted this 24th day of May, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of May, 2018, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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